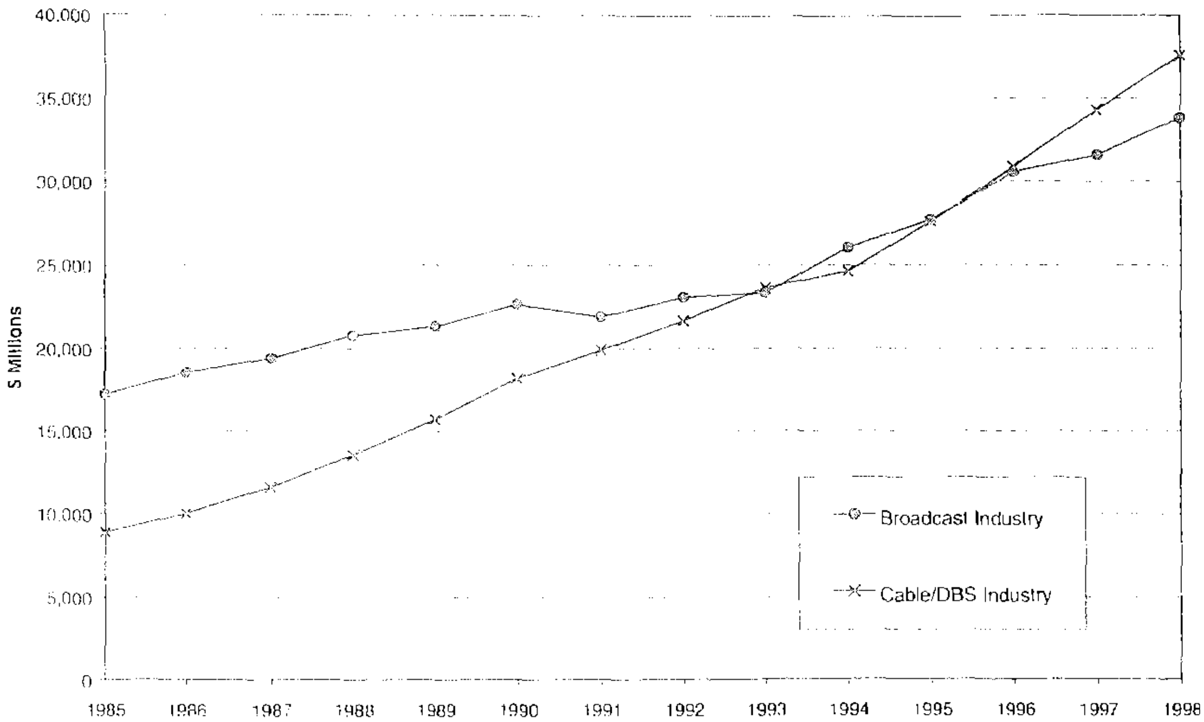
FIGURE 15
BROADCAST AND CABLE/DBS INDUSTRY NET REVENUES
1985-1998



Notes: Gross advertising revenues have been adjusted downward 15 percent to reflect advertising commissions
DBS pay revenues include revenues from DBS and all other non-cable operators.
DBS basic and mini-pay subscriber revenues are not included because data are not available.

Sources: Paul Kagan Associates, *The Kagan Media Index*, January 30 1997, January 29 1999, and February 18 1999
Paul Kagan Associates, *Cable TV Advertising*, March 31, 1998
Paul Kagan Associates, *The Pay TV Newsletter*, April 30 1997, August 19 1998, and May 31 1999.

of The WB, all of the recent network entrants were launched from a base of network owned and operated television stations. **And** even The **WB** has close ownership links with several affiliates.[36] This finding that station ownership typically serves an important role in launching **a** viable broadcast network is not surprising given the benefits of the network-station coordination that is facilitated by ownership.[37]

Turning from networks to stations, there are several significant trends in the number **of** stations and the pattern of station ownership.

Station Growth. The first fact to recognize is that the total number of stations has risen dramatically over the past quarter of a century. Figure 16 illustrates the number of stations from 1953 through ioday. At least two points stand out. First, the number of VHF stations roughly doubled in the 1950s. Second. the number of UHF stations rose dramatically in the 1970s and continues to rise. In part, this increase likely reflects the fact that cable retransmission of UHF signals has reduced the disadvantages associated with UHF transmission. The net result is that the total number of commercial broadcast television stations has increased between three- and fourfold since many of the rules governing the industry were put into effect

Not surprisingly, the increase in the overall number of stations has **led** to greater numbers of stations in each market. This is an important trend because both competition and diversity are primarily local phenomena. Figure 17 illustrates how even since 1979

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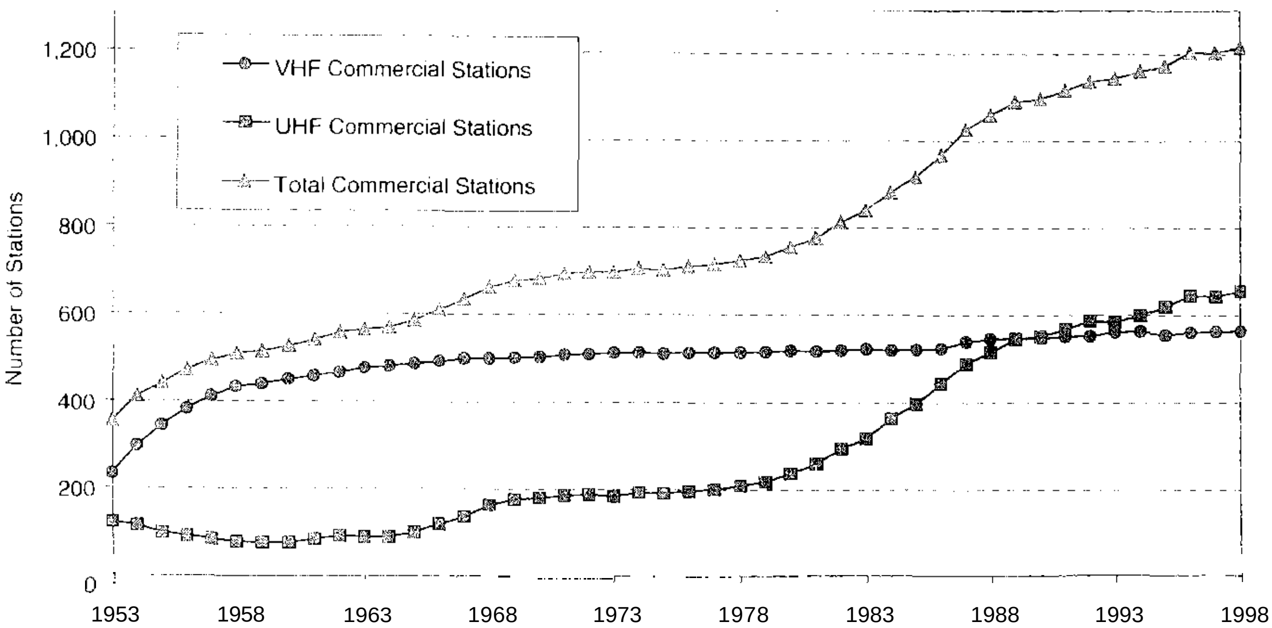
36 The WB Network is owned in part by Tribune Broadcasting. which also owns WB affiliates in eight of the nation's top 11 markets (Elizabeth **A.** Rathhun. "Wheeling starts; dealing to come." *Broadcasting & Cable*, August 18. 1999, at 8.) **And** Jamie Kellner, the Chief Executive Officer of The WB Network. owns part of Acme Television, which operates nine WB affiliates. (Stew McClellan. "Acme TV Goes Public," *Broadcasting & Cable*, August 18, 1999, at 34.)

37 These benefits are discussed further in Section IV.B below

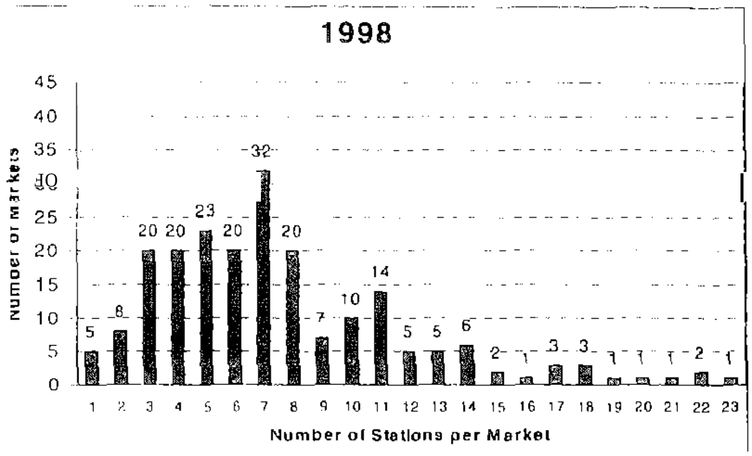
FIGURE 16
NUMBER OF COMMERCIAL STATIONS
1953-1998

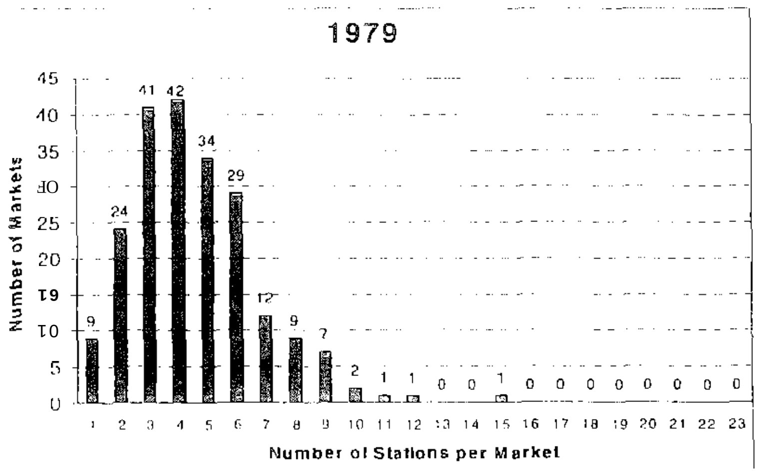


Note: *The Television and Cable Factbook* reports data as of January 1st of each year, **but** the data are given *here* as the year-end total for the previous year.

Source: Warren Publishing, Inc. *Television & Cable Factbook* Stations Volume No. 67, 1999 Edition, p. C-1

FIGURE 17
GROWTH IN BROADCAST STATIONS PER MARKET





Sources: Warren Publishing, Inc., *Television & Cable Factbook*, Stations Volume No. 67, 1999 Edition, "Affiliations by Market," p. C-48 - C-51.
Southern California Law Review, vol. 54, January 1981, no. 5, p. 982.

the number of stations per market has risen significantly.[38] In 1979, only 33 markets had seven or more television stations. Today, 114 markets — more than half of all television markets — have seven or more television stations. And because markets with larger populations tend to be the ones with greater numbers of stations, the majority of television households are located in markets with 11 or more stations.[39]

Station Ownership. There are several important facts to recognize about the ownership of these roughly 1,200 stations. One, shown in Figure 18, is that most stations are controlled by group owners. This pattern *is* to be expected given the existence of efficiencies associated with group ownership. There are economies of scale and scope in management, sales. and program acquisition. Nevertheless, Figure 18 also shows that a significant number of stations are individually owned.

Figures 19.A and B provide additional information about the largest group owners. Figure 19.A shows their station holdings for the past four years measured in terms of adjusted reach.[40] Figure 19.B shows the number of stations held by each of the largest groups over the past five years.

Several points emerge from these figures. First, the groups that control the largest number of stations are not necessarily the groups with the largest national reaches. As will be discussed below, this divergence has implications for assessing the impacts of

on diversity. Second, large group owners (or their parent companies)

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38 When the Barrow Report was published, only 16 television markets had *more* than three television stations and only 53 had more than two stations (Barrow Report at 187).

39 *Television & Cable Factbook*. Stations Volume No. 67. Warren Publishing Inc., Washington, D.C., 1999.

40 The Federal Communications Commission makes this adjustment by giving a 50 percent discount to the reaches of UHF stations.

FIGURE 18
NUMBER OF NON-NETWORK GROUP-OWNED AND SEPARATELY-OWNED COMMERCIAL TELEVISION STATIONS YEAR END 1994 AND 1997

	Number of Commercial Television Stations	
	1994	1997
Group-Owned	821	881
Separately-Owned	304	251
Total	**1,125**	**1,132**
Percent Group-Owned	73%	78%

Source: "Comments on Filing by Network Affiliated Stations Alliance," John Haring and Harry Shooshan III, August 21, 1998.

Original Source Warren Publishing, Inc., *Television and Cable Factbook*. Stations Volume Nos. 63 and 66. 1995 Edition (p. A-1361 A-1394) and 1998 Edition (p. A-1445 - A-1474). "Ownership of Commercial Television Stations."

FIGURE 19.A
TOP 25 TELEVISION GROUPS
ADJUSTED PERCENTAGE OF US. HOUSEHOLDS COVERED'
1996-1999

TV Group	1996	1997	1998	1999
Fox Television Stations Inc.	22.1%	34.8%	34.9%	34.5%
CBS Television Station Group'	31.0%	30.9%	30.8%	32.8%
Paxson Communications Corp.	18.0%	26.8%	30.9%	29.0%
Tribune Broadcasting Co.	25.0%	25.9%	26.5%	27.0%
NBC Inc.	24.6%	24.6%	26.9%	26.6%
ABC Inc. (Disney)[3]	24.1%	24.0%	23.9%	24.0%
United Television Inc./Chris-Craft Industries Inc.	17.7%	17.6%	18.7%	**18.8%**
Gannett Broadcasting	14.1%	18.0%	16.5%	17.2%
Hearst-Argyle Television Inc.[4]	7.3%	9.2%	9.6%	16.1%
USA Broadcasting/HSN, Inc./Silver King Broadcasting	20.0%	18.4%	15.5%	15.5%
Sinclair Broadcast Group Inc.	8.9%	8.2%	13.0%	14.2%
Paramount Stations Group Inc.	10.2%	9.1%	12.4%	13.6%
Univision Communications Inc.	12.8%	9.9%	13.5%	13.5%
A.H. Belo Corp.	8.0%	10.5%	14.2%	13.4%
Telemundo Group Inc.	10.4%	10.7%	10.7%	10.7%
Cox Broadcasting Inc.	7.7%	9.5%	9.6%	9.6%
Young Broadcasting Inc.	9.1%	9.0%	9.1%	9.0%
E.W. Scripps Co.	8.0%	0.7%	8.0%	8.1%
Hicks, Muse, Tate & Furst Inc			7.2%	8.0%
Shop at Home Inc.				7.7%
Post-Newsweek Stations Inc.	7.0%	7.1%	7.1%	7.2%
Ellis Acquisitions/Raycom Media[5]	4.0%	5.6%	5.2%	6.6%
Meredith Broadcast Group		6.2%	6.3%	6.3%
Media General Broadcast Group		4.7%	4.5%	4.4%
Clear Channel Communications				4.2%
Allbritton Communications Co.	3.5%	4.2%		
Granite Broadcasting Corp.		5.9%	6.1%	
LIN Television	6.3%			
New World	12.8%			
Providence Journal	5.4%			
Pulitzer Broadcasting Co.	5.2%	5.2%	5.2%	

Notes'

[1]Total household coverage has been adjusted lo reflect the *50* percent discounl lhal is used in calculating household coverage lor compliance with the FCC's ownership cap.

[2]Westinghouse Electric Corporation changed its name to CBS Corporation in December 1997.

'The Walt Disney Company acquired Capital Cities/ABC in July 1995

[4]Hearst-Argyle was formed in 1997 with the merger of Argyle Television, Inc and The Hearst Corporation's Bro: Prior to 1997, figures correspond lo the Hearst Corporation.

[5]Raycom Media, Inc acquired Ellis Communications in September 19

Sources

'Top 25 Television Groups," *Broadcasting & Cable Magazine*, July 8, 1996 (pp 12-20). .June 30, 1997 (Pp. 30-41), April 6, 1998 (pp. 46-68) and April 19 1999 (pp 39-58)

FIGURE 19.B
TOP 25 TELEVISION GROUPS
NUMBER OF STATIONS OWNED
1995-1999

TV Group	1995	1996	1997	1998	1999
Sinclair Broadcast Group Inc.		22	28	56	56
Paxson Communications Corp.		16	44	55	49
Hearst-Argyle Television Inc.[1]	6	7	16	16	32
Ellis Acquisitions/Raycom Media[2]		22	26	23	30
Hicks, Muse, Tate & Furst Inc.				23	29
Fox Television Stations Inc.[3]	12	12	22	22	22
A.H. Belo Corp.	7	7	16	17	22
Gannett Broadcasting	10	15	18	19	21
Tribune Broadcasting Co.	8	16	17	19	20
Paramount Stations Group Inc.	6	12	13	17	19
Clear Channel Communications					18
CBS Television Station Group[4]	7	14	14	14	14
NBC Inc.	6	11	11	12	13
USA Broadcasting/HSN, Inc./Silver King Broadcasting	12	16	17	13	13
Univision Communications Inc.	9	11	12	13	13
Young Broadcasting Inc.		13	15	15	13
Media General Broadcast Group			13	13	13
Cox Broadcasting Inc.	6	7	12	9	11
Meredith Broadcast Group			11	11	11
ABC Inc. (Disney)[5]	9	10	10	10	10
United Television Inc./Chris-Craft Industries Inc.	8	8	8	10	10
E.W. Scripps Co.	9	9	10	9	10
Telemundo Group Inc.	6	8	8	8	8
Shop at Home Inc.					6
Post-Newsweek Stations Inc.	6	6	6	6	6
Allbritton Communications Co.		8	10		
Granite Broadcasting Corp.			11	12	
Group W	8				
Hubbard Broadcasting	9				
LIN Television	9	9			
New World	12	10			
Providence Journal	11	11			
Pulitzer Broadcasting Co.	10	10	10	9	
Renaissance	9				
River City Broadcasting	7				

Notes.

[1]Hearst-Argyle was formed in 1997 with the merger of Argyle Television, Inc and The Hearst Corporation's Broadcasting Group. Prior to 1997, figures correspond to the Hearst Corporation

[2]Raycom Media, Inc acquired Ellis Communications in September 1996

[3]Fox also has one LMA. Fox data have been adjusted based on information from the network.

[4]Westinghouse Electric Corporation changed its name to CBS Corporation in December 1997 CBS data have been adjusted based on information from the network

[5]The Walt Disney Company acquired Capital Cities/ABC in July 1995

Sources.

"Top 25 Television Groups," *Broadcasting & Cable Magazine.* July 10, 1995 (pp 8-9), July 8, 1996 (pp. 12.20). June 30. 1997 (pp 30-41), April 6, 1998 (pp 46-68) and April 19, 1999 (pp 39-58) often have significant interests in other media. Examples include Cox Broadcasting, Inc., Gannett Broadcasting, and Hearst-Argyle Television, Inc. These companies may thus be able to benefit from economies of scope across media, for example in news gathering. Third, the broadcast networks are the largest group owners measured in terms of national reach. This pattern of ownership is consistent with the existence of significant efficiencies associated with network ownership of stations. Thus, this pattern supports the view that limiting expansion of the network station groups is harmful to the realization of economies of coordination.

A final fact about station ownership is that few stations are controlled by owners who are members of minority groups. Figure 20 lists the minority ownership as defined by the National Telecommunications and Information Administration (NTIA). Under the NTIA methodology. "a station qualifies as 'minority-owned' when a Black, Hispanic, Asian or Native American owns more than 50 percent of its corporation's stock."[1] In addition to being a small percentage of the total number of stations, minority-owned stations rend to be in small markets. Moreover. minority station groups themselves tend to be small. This last pattern almost has to hold given the way in which the NTIA defines minority ownership. A large group owner would likely be part of a publicly traded corporation. in which case it would not be classified as minority owned if its shares were widely held and the cthnicity and race of the shzreholders mirrored those of the U.S. population. This would be true even if a member of a minority group owned the largest single block of shares.

[1] *Minority Commercial Broadcast Ownership in rhr United States,* Appendix A. "Methodology," National Telecommunications and Information Administration, October 27, 1998.

FIGURE 20
MINORITY-OWNED COMMERCIAL TELEVISION STATIONS

Owner	Number of Stations
Don Cornwell. Granite Broadcasting	10
Michael Roberts, Roberts Broadcasting	4
Frank Melton, TV 3	3
Quincy Jones. Qwest	2
Walter Ulloa, Introvision	2
Eddie Edwards. Sr , WPPT, Inc	1
Dorothy Brunson, Brunson Communications	1
Theodore White. Urban Broadcasting Corp.	1
Joel Kinlow, TV 49 Inc.	1
Carmen Briggs, Ponce-Nicasio	1
Frank Fouce. Foucr Amusemenr Enterprises, Inc	1
Jose Molina, Continental Broadcasting Corp.	1
Eddie Whitehead. Golden Link TV Inc.	1
Joseph Stroud. Jovon Broadcasting, Inc	1
James Watkins, Howard University Television	1
Oscar M Laurel, Panorama. Broadcasting Co	1

Source
National Telecommunications and Inlormation Adminiatration.
Minority-Owned Commercial Television 1997-98 Survey Results,
August 1998.

D. Industry Profitability

The next data examined are those relating to industry profitability. Figure 21 shows the operating cash flows for broadcast networks and their affiliates over the 1989-1997 period. As can be seen from the figure, the affiliates consistently have much higher operating cash flows than do the networks. This pattern is consistent with network reports that their owned and operated stations—rather than the network operations themselves—are the source of the majority of their profits.[42]

Because there has been so much confusion about the significance of profitability data for the formulation of public policy, it is worth raking some time to examine the economic relevance of these data. The public policy issue is not a question of which company makes how much money. And the issue is not whether the networks will be driven out of business; they won't. The issue is the quality of the programming the networks will offer. The importance of profitability for public policy is whether broadcast networks and stations will be able to organize efficiently and thus have the appropriate incentives to continue offering high-quality programming on non-subscription broadcast television.

Claims that the networks are making "lots of money" miss the point. Whether the networks' profits are high or low, and whether these profits come from the owned and o[illegible] stations or the network operations themselves, inefficient rules distort co[illegible] investment. These effects arise when regulations limit a network and station's ability to structure their business relationship in ways that give both parties

[42] In fact, some industry analysts are quite pessimistic about broadcast network profitability, particularly in comparison with cable network profitability. See, for example, Diane Mermigas "Tide turns, cable sails past Big 4," *Electronic Media*, August 16, 1999 at 13.

FIGURE 21
BROADCAST NETWORKS AND STATIONS OPERATING CASH FLOW
1989-1997

Broadcast Networks
($ millions)

	1989	1990	1991	1992	1993	1994	1995	1996	1997
ABC			155	130	228	578	362	334	140
CBS [1]			-32	71	209	218	42	65	-31
NBC [1]			23	80	100	179	291	446	512
FOX			59	85	116	-196	114	115	76
Big Three			100	281	537	975	695	845	621
Big Four [2]	772	680	159	366	653	779	809	960	697

Broadcast Stations
($ millions)

	1989	1990	1941	1992	1993	1994	1995	1996	1997
Big Three Affiliates [3]	3,887	3,772	3,107	3,627	3,892				
B o Four Affiliates [3]						6,258	6,207	7,514	7,452

Sources:

[1] Paul Kagan Associates, *The Economics of TV Programming & Syndication*, 1999 (p. 160 and 163), 1998 (p. 129), and 1994 (p. 18).

[2] For 1989-90, Paul Kagan Associates, *TV Program Investor*, June 17, 1998.

For 1991-97, Paul Kagan Associates, *The Economics of TV Programming & Syndication*, 1999 (p. 160 and 163), 1998 (p. 129), and 1994 (p. 18)

[3] *NAB Television Financial Reports*, 1992 and 1993, and *NAB/BCFM Television Financial Reports*, 1990, 1994-1998.

Warren Publishing, Inc., *Television & Cable Factbook*, Services Volume, 1993-1998 Editions, "Television Networks."

Declaration of Stanley M. Besen on Behalf of Plaintiffs Turner Broadcasting System, Inc., et al., May 24, 1995, Exhibit D-2 (ultimate source: Warren Publishing, Inc., Washington, D.C.).

Warren Publishing, Inc., *Television & Cable Factbook*, Services Volume, 1994-1998 Editions, "Affiliations by Market."

incentives to invest in strengthening their programming and promotional activities. Regulations that impose inefficient relationships on networks and the stations that distribute their programming reduce the profitability of investing in high-quality programming. Consequently, such rules degrade the quality of programming offered over-the-air on a non-subscription basis.

Another pattern that has been observed repeatedly is that affiliated stations are more profitable than are independent stations.[43] Again, this is an area in which there has been considerable misinterpretation of the meaning of the data. Some industry observers have incorrectly concluded that this pattern of profitability implies that affiliates are dependent upon the networks and lack bargaining power. In fact, this pattern supports the opposite conclusion. First. the existence of independent stations demonstrates that stations can survive without network affiliation. More important, the fact that affiliates are more profitable than independent stations demonstrates that affiliates have been able to reach profitable agreements with the networks. The affiliated stations have bargaining power that allows them to capture a significant portion of the profits from their operations as parts of networks.[44]

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43 See. for example, Beutel, Kirr. and McLaughlin, Broadcast Television Networks and Affiliates— 1980 and Today. National Economic Research Associates (October 27, 1995) attachment to Comments of the Network Affiliated Stations Alliance, *In Re 19'° Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Or r Rules Adopted Pursuant to Section 202 of the Telecommunications Acr of 1996,* MM Docket 98-35 (July 21, 1998). Section III.D.

44 This bargaining power may stem from the fact that some stations are betrer run and stronger than are others. Such stations would have better prospects as independenis and also would be more desirable as affiliates than would weaker stations Alternatively, thr bargain between a network and an affiliate may reflect the fact that it is in *both* parties' interests that each sees henefit from the relationship and thus has incentives to contribute to their collective well being

E. Alternative Outlets

In designing and applying regulation to the networks it is important to recognize who and what the broadcast television networks are. One way to view them is as program distributors, some of whom also happen to be large group owners. But a more useful perspective views the networks as producers of high-quality programming who seek efficient distribution for that programming. The parents of ABC, CBS, Fox, NBC, UPN and The WB all have production arms for dramas and comedies. ABC, CBS, Fox, NBC, and Time Warner all have large national and international news operations. And ABC, CBS. Fox. and NBC have major sports programming operations.

While over-the-air broadcasting is one way the networks' parent companies distribute content, there are others, both existing and potential. Figure 22 presents a partial listing of cable properties in which the four largest broadcast television networks have ownership interests. As shown in the figure. the four largest networks and/or their parent companies all have made significant investments in cable propenies. These investments make good economic sense from both private and social perspectives. Networks have valuable programming assets, brand names, and production and promotion skills. It is profitable and efficient to make use of these skills and assets in a variety of ways.

A similar picture emerges with respect to Internet properties. Figure 23 provides a partial listing of Internet properties in which the networks and/or their parent companies

FIGURE 22
BROADCAST NETWORK OWNERSHIP CABLE PROGRAM SERVICES
1999

Broadcast Network [1]	Cable Program Service
ABC	
	A&E
	Classic Sports
	Disney
	E!
	ESPN
	ESPN2
	ESPNews
	History
	Lifetime
	Toon Disney
CBS	
	Country Music
	Nashville Network
Fox	
	Fox Family Channel
	Fox News
	Fox Sports Americas
	Fox Sportsnet
	FX
	FxM
	The Health Network
	National Geographic
	Outdoor Life
	Speedvision
	TV Guide Channel
NBC	
	A&E
	AMC
	Bravo
	CNBC
	Court TV
	History
	MSNBC

Note:
[1] Ownership is attributed lo a network regardless of whether the network, its parent company, or a related company holds the interest.

Sources:
ABC, CBS. and Fox.
Paul Kagan Associates. *The Economics of Basic Cable Networks 1998,* pp. 54-56.

FIGURE 23
BROADCAST NETWORK OWNERSHIP OF INTERNET SITES AND OTHER WEB HOLDINGS
1999

Broadcast Network [1]	Internet Sites and Other Web Holdings
AEC	
	ABC com
	ABCNews corn
	Disney Blast
	Disney w m
	ESPN com
	G O Network
CBS	
	CES MarketWatch
	CES SportsLine
	CBS com
	hollywood com
	Jobs w m
	Medscape com
	Office corn
	Rx com
	StoreRunner w m
	Switchboard com
	Wrenchead w m
Fox	
	Fox w m
	Foxinteractive com
	FoxMarketWire corn
	FoxNews corn
	FoxSports corn
	NYPost corn
	TVGuide.cOm
NEC	
	CNEC corn
	Interactive Neighborhood
	MSNEC corn
	NBC com
	Snap corn
	VideoSeeker
	Xoom com
UPN	
	UPN com
	sites for UPN Shows
	(including *Moesha Clueless Dilbert Star Trek Voyager* and Love *Boat*)
WB	
	WarnerBros corn
	sites for WB Network Shows
	(including *Dawson's* Creek 7th Heaven and *Buffy the Vampire Slayer*)

Note:
[1] Ownership is attributed to a network regardless of whether the network, its parent company. or a related company holds the interest

Sources
ABC. CBS. and Fox.
Richard Tedesco, "NBC lo Spawn Net Unit," *Broadcasting &* Cable. May 17. 1999. p 49.

are investing.[45] Again. the investments make commercial sense and are not themselves a source of public interest concern.

While it is efficient for the networks to make use of their valuable assets and skills by branching into cable and the Internet content, this trend does have an important implication for regulation: if regulation distorts economic returns in broadcasting, networks will be inefficiently driven to direct more of their financial and creative resources toward cable properties and other distribution platforms. Networks will make some of these investments in any event, but their business decisions should not be skewed and distorted by outdated government regulations.

It is critical to recognixe that the fact that the networks are branching into other services is *not* the problem—it is privately and socially valuable for them to make use of their skills and assets in these other services. Rather a problem arises when regulation distorts the networks' investment decisions. Indeed, regulations that make it artificially difficult to branch out into other media also generate social costs. **As** a 1991 FCC staff rcpon concluded:

> Broadcasters should not be hindered excessively from diversifying to make efficient use of their core skills — production, acquisition, and scheduling of programming, as well as selling advertising. The physical distribution of the broadcast signal is, in fact, a small part of the broadcasters' business.[46]

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45 See also Eric Quinones, "Media Companies Adding Web Cachet – Powerhouse\ Hold Some New Cards," *The New York Times*, August 1, 1999 at BU 7

46 Florence Setzer and Jonathan Levy, *Broadcast Television in a Multichannel Marketplace*, Federal Communications Commission Office of Plans and Policy Working Paper No. 26 (June 1991) at x.

F. Why These Industry Trends Matter for Public Policy

The data analyzed in this section of the white paper clearly demonstrate that the broadcast television industry has changed dramatically over the past fifty years. The regulatory regime governing broadcast television has not undergone a similarly sweeping transformation. Of course, it does not automatically follow that regulation is out of date or no longer serves the public interest. Perhaps we have been blessed with policies sufficiently flexible that they promote the public interest even in the face of tremendous economic change. Unfortunately, the evidence clearly demonstrates that we have not.

The remainder of this white paper examines the national multiple ownership rule to see what role it playa in today's economic environment. Empirical and logical analyses demonstrate that the rule has not kept up with the times. Whatever value this rule may have had in the past, today it give rise to efficiency costs with no offsetting benefits.

IV. THE NATIONAL TELEVISION MULTIPLE OWNERSHIP RULE

A. Background

The national multiple ownership cap provides an instructive example of **a** regulation that no longer serves the public interest in the new economic environment. Under the current **rule,** a single entity cannot control stations whose combined reach exceeds 35 percent of U.S. television households.[47] Th[illegible] on the number of stations that a single grou[illegible] owner may control, however [illegible], when a group owner

[47] 47 CFR Section 73.3555(e).